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SMITH FROHWEIN TEMPEL GREENLEE BLAHA, LLC
Two Ravinia Drive
Suite 700
ATLANTA, GA 30346

EXAMINER
REFAI, RAMSEY

ART UNIT	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _28 October 2008_.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1,2,7-9,11,12,15,17-19 and 21_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1,2,7-9,11,12,15,17-19 and 21_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____ .

DETAILED ACTION

Response to Amendment

Responsive to Request for Continued Examination (RCE) filed October 28, 2008. Claims 1, 2,

and 11 have been amended. Claims 1, 2, 7-9, 11, 12, 15, 17-19, and 21 remain pending.

Response to Arguments

1.   Applicant's arguments have been fully considered but they are not persuasive.

In the remarks, the Applicant argues with substance:

Argument A: *Klein does not receive a response from the server. Klein does not forward*

any responses.

In response, the Examiner respectfully disagrees. Klein et al teach web server 112 will

have returned to it a resultant web page **(see at least column 5, lines 39-45)** based on a user

request **(see at least column 5, line 31)** and will then forward the web page to the web browser

(see at least column 5, lines 65-67).

Argument B: *The web agent 116 is not operating as the claimed predictive server; the*

web server 116 is never described as receiving a first response from the server in

response to the server acting on a request for a web page.

In response, the Examiner respectfully disagrees. Klein et al teach web agent 116 is part

of web server 112 **(see at least column 5, lines 22-27).** Web server 112 can receive a

resultant web page based on the user request from Application server 114 **(see at least**

column 5, lines 32, 39-41, 59).

Argument C: *Klein does not teach generating at the predictive server storage unit a*

predictive list of requests for objects, which are needed for presenting the requested web

page, based on an analysis of information contained within said stored first response",

In response, the Examiner respectfully disagrees. Klein et al teach statistical information is received from Web Agent 116, that relates to which web page is most often accessed directly after the current web page being viewed at this moment in Web Browser 110. The web page most likely to be accessed next, Web Agent 116 provides an Object List 126, to Java Applet 124 of Web Page Objects 128 that is ordered in statistical significance (high to low). Objects 128 can be graphics, applets or other web page content. Java Applet 124 makes a request for that Web Object 128 over network 102. Web Server 112 services this request and delivers to Java Applet 124, over network path 102, the requested Web Object 128. Java Applet 124 copies Web Object 128 into Web Browser Cache 130 where it will reside and be made available to Web Browser 110 on subsequent Web Browser 110 transactions. Thus, Web Object 128 is made available before actually needed by Web Browser 110. **(See at least column 6, lines 10-36)** Therefore Klein et al meet the claimed limitation.

Klein et al also teaches that Applet 124 can generate an object list of web pages or web objects that are possible next web pages and can then send an instruction to web server 112 to obtain these next web pages. The web pages are then sent to the Applet and are cached where they reside till they are needed **(see at least column 6, line 64-column 7, line 37).**

Argument D: *Klein does not issue predictive requests to the server and does not received predictive responses.*

In response, the Examiner respectfully disagrees. Klein et al teach that requests are made for objects or web pages prior to being requested and are then stored in the browser cache and made available to the user prior to actually needing those pages **(see column 6, lines 10-35, column 7, lines 5-37).**

Argument E: *the object list used by Klein is created based on statistical method and not*

by parsing a received a first response to a request for a web page.

In response to applicant's argument that the references fail to show certain features of

applicant's invention, it is noted that the features upon which applicant relies (i.e., ***parsing*** *a*

received a first response to a request for a web page) are not recited in the rejected claim(s).

Although the claims are interpreted in light of the specification, limitations from the specification

are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir.

1993). The claim teaches that a predictive list of objects is generated and does not mention

how that list is generated. Klein et al teaches that the list can be generated based on statistical

significance and without statistical significance (all objects will be pre-cached regardless) **(see**

at least column 2, line 39-column 3, line 5, column 6, line 10-column 7, line 37).

Claim Rejections - 35 USC § 102

2.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section
122(b), by another filed in the United States before the invention by the applicant for patent
or (2) a patent granted on an application for patent by another filed in the United States
before the invention by the applicant for patent, except that an international application filed
under the treaty defined in section 351(a) shall have the effects for purposes of this
subsection of an application filed in the United States only if the international application
designated the United States and was published under Article 21(2) of such treaty in the
English language.

3.   Claims 1, 2, 7-8, 11, 12, 15, 17-18, and 21 rejected under 35 U.S.C. 102(e) as being

anticipated by Klein et al (US Patent No. 7,047,485).

4.   As per claim 1, Klein et al teach a system for enhancing perceived throughput between a

client and a server, said system comprising:

a predictive server in association with said server wherein said predictive server

comprises a server analyzer unit and a server storage unit **(column 6, lines 10-20, fig 1: web**

Agent 116 running on web server 112);

a client agent in association with the client, wherein the client agent comprises an agent

analyzer unit and an agent storage unit **(column 6, lines 64-67, fig 1; Applet 124 running on**

client 104);

wherein the predictive server analyzes, at the predictive server analyzer unit, a first

response to request for a web page **(column 5, lines 28-38)**, and accordingly generates at the

predictive server storage unit a predictive list of requests for objects, which are needed for

presenting the requested web page, **(column 6, lines 10-29)**; and wherein the predictive server

further issues predictive requests to the server, receiving from the server predictive responses

from the server**(column 6, lines 24-36; requests for web objects in object list are made to**

web server 112 which can then obtain the requested object from application server 114,

see column 5, lines 35-38); and

wherein the client agent receives with the agent analyzer unit of the client agent via the

predictive server said first response **(column 5, lines 28-38)**, analyzes the first response

(column 6, lines 34-67); automatically forwards said first response to the client **(column 6,**

lines 28-36), receives from the client a request for an object contained in first response and is

needed for presenting the requested web page **(column 7, lines 1-37)**, compares the request

for said object with the already received predicted responses, wherein when an already

received corresponding predicted response exists the existing predicted response is forwarded

to the client **(column 5, lines 39-45, column 3, lines 43-49)**.

5.   As per claim 2, Klein et al teach wherein the client agent is compares the request

against an agent's predictive list which is generated based on the client agent analyzing the first

response and if no entry for that request for an object is found, the request is forwarded towards

the server **(column 6, lines 10-53; in pre-caching, the cache is first checked to see if the**

object requested is available prior to sending the request to the server).

6.   As per claim 7, Klein et al teach wherein said client agent receives requests from said

client and forwards the requests to said predictive unit using encapsulation **(column 4, lines 15-**

28; request sent in web pages).

7.   As per claim 8, Klein et al teach wherein data transmitted between said client agent and

said predictive server undergoes a data processing step selected from a group consisting of

data compression, partial information transfers, protocol conversion, and data packet combining

(column 3, lines 59-63).

8.   As per claim 21, Klein et al teach wherein said client agent is further capable of issuing a

re-load command **(column 4, lines 15-27; web browser feature).**

9.   As per claims 11, 12, 15, 17-18, these claims contain similar limitations as claims 1, 2, 7,

8, and 21 above and are therefore rejected under the same rationale.

Claim Rejections - 35 USC § 103

10.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or
> described as set forth in section 102 of this title, if the differences between the subject
> matter sought to be patented and the prior art are such that the subject matter as a whole
> would have been obvious at the time the invention was made to a person having ordinary
> skill in the art to which said subject matter pertains. Patentability shall not be negatived by
> the manner in which the invention was made.

11.   Claims 9 and 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Klein et

al in view of "Official Notice".

12.   As per claim 9, Klein et al fail to teach *wherein the client agent is adapted to transmit a*

fake response to a client before a real response from said server has been received. However,

"Official Notice" is taken that the concept and advantage of sending a "fake" response before a

real response is well known in the art since web pages contain objects, such as images or text,

which may take longer to download then other objects. Therefore, it would have been obvious

to one of ordinary skill in the art at the time of the Applicant's invention to include such a feature

in Klein et al because doing so would allow for a partial response or "fake" response to be sent

to the requesting user while the server continues to download all objects of the requested page.

13.   Claim 19 contains similar limitations as claim 9 above and is therefore rejected under the

same rationale.

14.   The Applicant has not adequately traversed the Official Notice taken in the previous

action. " *To adequately traverse such a finding, an applicant must specifically point out the*

supposed errors in the examiner's action, which would include stating why the noticed fact is not

considered to be common knowledge or well-known in the art." MPEP 2144.03c. **The common**

knowledge or well-known in the art statement is taken to be admitted prior art because

the traverse was inadequate. MPEP 2144.03c

Conclusion

        Examiner's Note: The Examiner has cited specific citations in the reference(s) as applied

to the claim(s) above for the convenience of the Applicant. Although the specified citations are

representative of the teachings in the art and are applied to the specific limitations within the

individual claim, other passages and figures may apply as well. It is respectfully requested that

the Applicant, in preparing their response, fully consider the references in entirety as potentially

teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ramsey Refai whose telephone number is (571) 272-3975. The examiner can normally be reached on M-F 8:30 - 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ryan Zeender can be reached on (571) 272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private

PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you

would like assistance from a USPTO Customer Service Representative or access to the

automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Ramsey Refai
November 22, 2008
/R. R./
Examiner, Art Unit 3627

/F. Ryan Zeender/
Supervisory Patent Examiner, Art Unit 3627